

Senate Bill S2994A

SIGNED BY GOVERNOR

2019-2020 Legislative Session

Relates to exemptions from vaccinations due to religious beliefs; and repeals subdivision 9 of section 2164 of the public health law relating to exemption from vaccination due to religious beliefs

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CURRENT BILL STATUS VIA A2371 - SIGNED BY GOVERNOR



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ACTIONS

HIDE ACTIONS (12).

Assembly Actions - Lowercase
Senate Actions - UPPERCASE

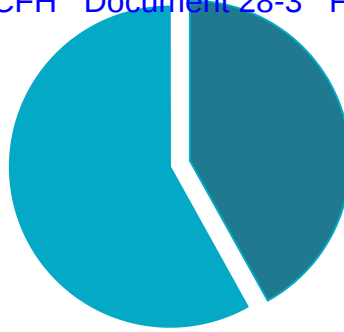
Jun 13, 2019	Signed Chap.35 Delivered To Governor RETURNED TO ASSEMBLY PASSED SENATE 3RD READING CAL.1338 SUBSTITUTED FOR S2994A
Jun 13, 2019	SUBSTITUTED BY A2371A ORDERED TO THIRD READING CAL.1338 COMMITTEE DISCHARGED AND COMMITTED TO RULES
May 19, 2019	PRINT NUMBER 2994A
May 19, 2019	AMEND AND RECOMMIT TO HEALTH
Jan 31, 2019	REFERRED TO HEALTH

VOTES

HIDE VOTES

JUN 13, 2019 - FLOOR VOTE

A2371A (</legislation/bills/2019/a2371/amendment/a>)



36 AYE

26 NAY

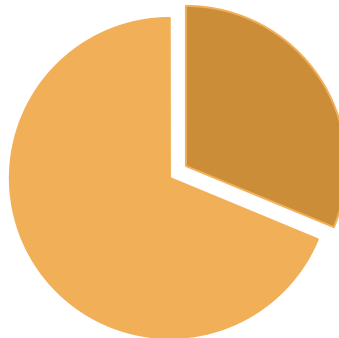
0 ABSENT
0 EXCUSED
0 ABSTAINED

SHOW FLOOR VOTE DETAILS



JUN 13, 2019 - RULES COMMITTEE VOTE

S2994A (</legislation/bills/2019/s2994/amendment/a>)



11 AYE

5 NAY

3 AYE WITH RESERVATIONS
0 ABSENT
0 EXCUSED
0 ABSTAINED

SHOW RULES COMMITTEE VOTE DETAILS



A (ACTIVE)



CO-SPONSORS



Jamaal T. Bailey (/Senators/Jamaal-T-Bailey)
(D) 36TH SENATE DISTRICT



Alessandra Biaggi (/Senators/Alessandra-Biaggi)
(D, WF) 34TH SENATE DISTRICT



David Carlucci (/Senators/David-Carlucci)
(D) 38TH SENATE DISTRICT



Liz Krueger (/Senators/Liz-Krueger)
(D, WF) 28TH SENATE DISTRICT

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S2994A (ACTIVE) - DETAILS

See Assembly Version of this Bill:

A2371 (/Legislation/Bills/2019/A2371/Amendment/A)

Law Section:

Public Health Law

Laws Affected:

Rpld §2164 sub 9, amd §§2164 & 2168, Pub Health L

Versions Introduced in Other Legislative Sessions:

2015-2016: **S6017 (/Legislation/Bills/2015/S6017)**, **A8329 (/Legislation/Bills/2015/A8329)**.

2017-2018: **S52 (/Legislation/Bills/2017/S52)**, **A1810 (/Legislation/Bills/2017/A1810)**.

S2994A (ACTIVE) - SUMMARY

Relates to exemptions from vaccinations due to religious beliefs; and repeals certain provisions relating to exemption from vaccination due to religious beliefs.

S2994A (ACTIVE) - SPONSOR MEMO

BILL NUMBER: S2994A

REVISED 05/21/19

SPONSOR: HOYLMAN

TITLE OF BILL: An act to amend the public health law, in relation to exemptions from vaccination due to religious beliefs; to repeal subdivision 9 of section 2164 of the public health law, relating to exemption from vaccination due to religious beliefs; and providing for the repeal of certain provisions upon expiration thereof

PURPOSE:

This bill would repeal all non-medical exemptions from vaccination requirements for children.

SUMMARY OF PROVISIONS:

Section 1 of the bill repeals subdivision 9 of section 2164 of the public health law.

Section 2 of the bill strikes a reference in subdivision 6 of section 2164 of the public health law to the repealed subdivision 9.

Section 2 also amends subdivision 7 of section 2164 to allow unvaccinated children a grace period during which they can still attend school or day care, provided they can demonstrate that they have received at least the first dose of each required immunization series, and have age-appropriate appointments scheduled to complete such immunization series.

Section 3 strikes a reference in subdivision 5 of section 2168 of the public health law to the repealed subdivision 9 of section 2164.

Section 4 establishes the effective date.

JUSTIFICATION:

The United States is currently experiencing the worst outbreak of measles since 1994, a disease that, in a major public health victory, officials declared eliminated from the United States in 2000. 880 cases of measles have been confirmed nationwide so far in 2019.

Outbreaks in New York have been the primary driver of this epidemic. As of May 20th, 2019, there have been at least 810 confirmed cases of measles in New York State since October 2018. The outbreaks have largely been concentrated in communities in Brooklyn and Rockland County with precipitously low immunization rates, some as low as 70 percent.

For guidance in dealing with this epidemic, we need only look to California, which repealed all non-medical exemptions to vaccination requirements under their state law after suffering an outbreak at Disneyland in 2014 that resulted in at least 131 cases of measles (about six times fewer cases than the current number of cases confirmed in New York).

After California repealed their non-medical exemptions, their vaccination rates improved demonstrably, particularly in schools with the lowest rates of compliance. The percentage of kindergarten students in the 2017-18 school year with all their required vaccines was 95.1% - a 4.7 percentage point increase over 2014-15.

New York's law currently allows children to avoid vaccinations on the grounds that they contradict the "genuine and sincere religious beliefs" of the child's parent or guardian. New York should follow California's example and repeal this provision of law.

Although freedom of religious expression is a founding tenet of this nation, there is longstanding precedent establishing that one's right to free religious expression does not include the right to endanger the health of the community, one's children, or the children of others.

As far back as 1905, the U.S. Supreme Court held that it is within the police power of a State to enact a compulsory vaccination law in *Jacobson v. Massachusetts*. In the 1944 case *Prince v. Massachusetts* upholding a conviction for a child labor law violation against a free exercise of religion claim, the U.S. Supreme Court observed that "the right to practice religion freely does not include liberty to expose the community or the child to communicable disease or the latter to ill health or death."

In 2015, citing the *Jacobson* and *Prince* rulings as precedent, the Second Circuit of the U.S. Court of Appeals opined in their ruling in *Phillips v. City of New York* that "New York could constitutionally require that all children be vaccinated in order to attend public school." The court also stated, "New York law goes beyond what the Constitution requires by allowing an exemption for parents with genuine and sincere religious beliefs."

New York's Constitution specifically states that its protections for the free exercise of religion "shall not be so construed as to justify practices inconsistent with the peace or safety of this state."

This legislation would repeal New York's religious exemption for vaccination requirements to protect the health of all New Yorkers, particularly our children.

PRIOR LEGISLATIVE HISTORY:

2017-18: S.52 (Hoylman) - Died in Health
 2016: S.6017 (Hoylman) - Died in Health
 2015: S.6017 (Hoylman) - Died in Rules

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act shall take effect immediately; provided, however, that the amendments to subdivision 7 of section 2164 of the public health law made by section two of this act shall expire and be deemed repealed June 30, 2020.

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S2994A (ACTIVE) - BILL TEXT

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S T A T E O F N E W Y O R K

2994--A

2019-2020 Regular Sessions

I N S E N A T E

January 31, 2019

Introduced by Sens. HOYLMAN, BAILEY, BIAGGI, CARLUCCI, KRUEGER, MONTGOMERY, RAMOS, SALAZAR, SKOUFIS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to exemptions from vaccination due to religious beliefs; to repeal subdivision 9 of section 2164 of the public health law, relating to exemption from vaccination due to religious beliefs; and providing for the repeal of certain provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 9 of section 2164 of the public health law is REPEALED.

§ 2. Subdivisions 6 and 7 of section 2164 of the public health law, as amended by chapter 401 of the laws of 2015, are amended to read as follows:

6. In the event that a person in parental relation to a child makes application for admission of such child to a school or has a child attending school and there exists no certificate or other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib), meningococcal disease, and pneumococcal disease, the principal, teacher, owner or person in charge of the school shall inform such person of the necessity to have the child immunized, that such immunization may be administered by any health practitioner, or that the child may be immunized without charge by the health officer in the county where the child resides, if such person executes a consent therefor. In the event that such person does not wish to select a health practitioner to administer the immunization, he or she shall be provided with a form which shall

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

S. 2994--A

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give notice that as a prerequisite to processing the application for admission to, or for continued attendance at, the school such person shall state a valid reason for withholding consent or consent shall be given for immunization to be administered by a health officer in the public employ, or by a school physician or nurse. The form shall provide for the execution of a consent by such person and it shall also state that such person need not execute such consent if subdivision eight [or nine] of this section [apply] APPLIES to such child.

7. (a) No principal, teacher, owner or person in charge of a school shall permit any child to be admitted to such school, or to attend such school, in excess of fourteen days, without the certificate provided for in subdivision five of this section or some other acceptable evidence of the child's immunization against poliomyelitis, mumps, measles, diphtheria, rubella, varicella, hepatitis B, pertussis, tetanus, and, where applicable, Haemophilus influenzae type b (Hib), meningococcal disease, and pneumococcal disease; provided, however, such fourteen day period may be extended to not more than thirty days for an individual student by the appropriate principal, teacher, owner or other person in charge where such student is transferring from out-of-state or from another country and can show a good faith effort to get the necessary certification or other evidence of immunization OR WHERE THE PARENT, GUARDIAN, OR ANY OTHER PERSON IN PARENTAL RELATIONSHIP TO SUCH CHILD CAN DEMONSTRATE THAT A CHILD HAS RECEIVED AT LEAST THE FIRST DOSE IN EACH IMMUNIZATION SERIES REQUIRED BY THIS SECTION AND HAS AGE APPROPRIATE APPOINTMENTS SCHEDULED TO COMPLETE THE IMMUNIZATION SERIES ACCORDING TO THE ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES RECOMMENDED IMMUNIZATION SCHEDULES FOR PERSONS AGED 0 THROUGH 18 YEARS.

(b) A parent, a guardian or any other person in parental relationship to a child denied school entrance or attendance may appeal by petition to the commissioner of education in accordance with the provisions of section three hundred ten of the education law.

§ 3. Paragraph (f) of subdivision 5 of section 2168 of the public health law, as amended by chapter 154 of the laws of 2013, is amended to read as follows:

(f) The immunization status of children exempt from immunizations pursuant to subdivision eight of section twenty-one hundred sixty-four of this title [and a parent claiming exemption pursuant to subdivision nine of section twenty-one hundred sixty-four of this title] shall be reported by the health care provider.

§ 4. This act shall take effect immediately; provided that the amendments to subdivision 7 of section 2164 of the public health law made by section two of this act shall expire and be deemed repealed June 30, 2020.

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